IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.59 OF 2005

G T L Limited
(formerly known as Global Tele-
System Ltd.) .. .. Petitioner
v/s.
State Bank of India & ors. .. Respondents

Mr.Shyam Diwan with Mr.Prakash Shah i/by M/s.DSK Legal for petitioner.

Mr.Harihar Bhave i/by M/s.Bhave & Co. for res.No.1.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 21ST MARCH 2005

P.C. :

1. Heard Mr.Diwan in support of this petition. Mr.Bhave appears for respondent No.1.

2. The petitioner had raised two preliminary objections to the maintainability of the Original Application filed by the 1st respondent-Bank. One was on jurisdiction to maintain the Application and the second was with respect to limitation. The Debts Recovery Tribunal (for short "DRT") has rejected both these objections and the Debts Recovery Appellate Tribunal (for short "DRAT") has

maintained that order. Therefore, the present petition has been filed.

3. As far as the question of jurisdiction is concerned, Mr.Diwan appearing for the petitioner states that the petitioner be permitted to raise it at a later stage after the final determination in the Original Application as well as in the Appeal therefrom in the event the determination on merits is against the petitioner. With respect to the limitation, he submits that as observed by the DRT in paragraph 24 of its order, the issue should be dealt with as and when the petitioner files its written statement and the issue is gone into on merits. As far as this aspect is concerned, the DRAT has observed in the last part of paragraph 6 of its order that whether the applicant-bank was negligent in paying the amount and, therefore, was not entitled to recover the same, is an issue which has to be argued and decided at the time of final hearing. Mr.Bhave appearing for respondent No.1-bank certainly has no objection since the bank has not challenged the orders passed by the DRT as well as DRAT.

4. In the circumstances, as far as the issue

on jurisdiction is concerned, that will not be re-agitated either in the DRT or in the DRAT. As far as the issue on limitation is concerned, that will be decided after the petitioner files its written statement and the parties will be allowed to raise their submissions with respect to the alleged negligence of respondent No.1-bank in making payment. On determination of merits as and when arrived at, if adverse to the petitioner, the petitioner will be at liberty to challenge that determination as well as one on both these issues as well. No need to interfere. Petition is disposed of.

5. Mr.Diwan appearing for the petitioner informs that the written statement has already been filed.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)